

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

HEARTS ON FIRE COMPANY, LLC,

Plaintiff,

v.

EIGHTSTAR DIAMOND COMPANY,

Defendant.

CIVIL ACTION NO. 04-12258-JLT

**PLAINTIFF'S UNOPPOSED MOTION FOR LEAVE TO SUBMIT
REPLY BRIEF IN FURTHER SUPPORT OF ITS
MOTION TO DISMISS COUNTERCLAIMS**

Plaintiff Hearts On Fire Company, LLC ("HOF") moves for leave to submit a Reply in Further Support of its Motion to Dismiss Defendant's Counterclaims in the above captioned matter. In support of this motion for leave, HOF states the following:

1. In its opposing HOF's Motion to Dismiss Counterclaims, Defendant EightStar Diamond Company ("EightStar") attaches to its Opposition (without any affidavit) certain documents regarding HOF's applications to register its trademarks with the United States Patent & Trademark Office ("USPTO").
2. EightStar's description of these documents is not correct and does not accurately characterize HOF's trademark applications.
3. In order to properly address these factual inaccuracies and EightStar's new arguments, it is necessary for HOF to respond with a short reply brief.
4. HOF respectfully believes that the attached reply brief will assist the Court in its consideration of HOF's Motion to Dismiss Counterclaims.

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WHEREFORE, HOF requests that this Court grant HOF leave to file a Reply Brief in Further Support of its Motion to Dismiss Counterclaims.

HEARTS ON FIRE COMPANY, LLC

By its attorneys,

/s/ Mark D. Robins

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Dated: January 31, 2005

Certification of Compliance with Local Rule 7.1(A)(2)

I, Mark D. Robins, Esq., hereby certify that on January 31, 2005, I conferred with counsel for defendant, Adele Conover, in an attempt to resolve or narrow the matters contained in this motion. Ms. Conover indicated that EightStar would not oppose HOF's motion for leave to file a reply brief and affidavit.

/s/ Mark D. Robins

Mark D. Robins